

- 74 by his relatives. For the feast during the mourning at a chief's death the food is acquired by institutionalized pillage (*qipinde*).
 641 The villagers in a chiefdom are often first informed of the death of a chief by the appearance of men from his village. These men are by custom allowed to take from a village any article of food they can find—flour, a goat, some chickens, prepared relish, or whatever is lying around in the village. The owners of the food may not charge them with theft. This food is used in the funeral feast. The customs to which the chief's men may go became circumscribed after the White conquest. Previously, almost any crime short of murder could be committed under the guise of *qipinde*. More recently, owing to Government opposition, it has been restricted to the taking of smaller articles of food, such as flour and chickens. Some people are beginning to object even to this. The chief's funeral is a public affair and all his subjects may attend it. The effect of the *qipinde* is to bring together enough food for the chief's funeral feast. Here, as before, the chief's men may not cross the boundary for fear of reprisals, and the effect is to impose a levy in an informal way over most of the villages in the chief's area.

THE CHIEF AS A SYMBOL OF UNITY

- 643 The chief is a representative of his people and it is his particular duty to ensure their welfare and that of the chiefdom as a whole. His symbolic representation of the unity of his people is brought out clearly by his right to fines in cases involving bloodshed and arson. Strife and division in a chiefdom in the old days were likely to end in spilt blood and burnt huts so that the Yao associate bloodshed and hut-burning with dissension within the chiefdom.
 644 Most other offences are against the individual and not the chiefdom as a whole: the case is brought to the chief so that compensation may be awarded. Adultery and theft thus are definitely civil offences. Nowadays, a fine is imposed, but this is seen to be a White innovation, and the money from it is looked upon as 'Boma' money.¹ In disputes where blood has been shed, however, the chief is entitled to fine the guilty party on his own account. The chief is said to be 'blinded' by the blood and a payment must be made to him before he may 'see'.
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¹ I.e. Government money.

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again. In the past, disputes hanging on murder had this aspect, (32) though they were usually settled by a feud. Nowadays, of (41) course, all murder cases are lifted altogether out of the hands of the chief, but the special fine for bloodshed is still levied in cases of assault. When a man is convicted of assault in the chief's court he will have to pay three separate amounts: one to the victim as compensation, one as a fine to the Native Treasury, and one to the chief 'so that he may see again'.

A similar provision applies to cases of arson. When a case is brought to the chief because a man has burnt another's hut, the chief will say that the guilty man has 'brought a torch into his country'. The man convicted of arson will have to pay a special fine to the chief in the same way as the man who caused bloodshed. The association of the unity of the chieftoms with fire probably has some place in the attitude of the chief here. People who have come to a chieftom as strangers are said to have come to 'seek the chief's fire';¹ and all the fires in the chieftom are supposed to have been kindled from one flame. This expresses the unity of the chieftom: the burning of the hut, therefore, symbolises the introduction of discordant elements, as well as being a serious crime in itself. (46) (372)

THE CHIEF'S JUDICIAL FUNCTIONS

It is clear from MacDonald's writings that in pre-White days (42) the chief settled most of the serious disputes in his chieftom. Nowadays, this function of the chief has been given legal sanction (43) under the Native Courts' Ordinance of 1933. 'A' grade courts have the power of imposing fines not exceeding £5, or 6 months' imprisonment and 12 strokes whipping; and 'B' grade courts may impose fines not exceeding £1 and imprisonment including hard labour not exceeding one month, but not corporal punishment. The Native Authorities, Jala, Nyambi, Kawinga and Liwonde, all have 'A' courts; the Subordinate Native Authorities, Chikweo, Ngokwe, Chiwalo, Chamba, Mposa, Mlomba, Stora, have 'B' courts. Only a certain proportion of disputes (44) is brought for trial in these Native Authority courts. This is (47) because, firstly, the Administration does not admit the legality (48) of some disputes. Most of these centre on charges of witchcraft,

¹ A similar view of fire in the village context is discussed in Chap. V, p. 112.

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the defendant was carried out by dragging with a piece of rubber or a piece suspended to the person near him from the chief's village.

There was no man against a man who refused an arbitrator's gift, the latter being considered seriously at fault.

After dinner, the children always remained with the mother. The man left his wife after the meal, saying, "I will take my spear and some of the game and children, but the children will always have their father."

Murder was a question of compensation to the deceased's relatives and was not paid [61] •
[61] paid by death.

Drinking was a serious offense but many who were found guilty were rather despised [61] than punished. The chief with the order gave him about his body but otherwise [61] asked would be driven through the village and punished with sticks to the sound of drum and horns of deer. That crime, however, might be pardoned by meeting compensation. [61] Payment took the form of goods or deer. In the case of murder, the amount might have to pay several deer to the deceased's relatives, and in addition, a fine to the chief for spilling blood, consisting perhaps of one deer. The amount of compensation expected was mentioned by the plaintiff in the case. One of the expressions used was, "My compensation must cover an ant hill," meaning enough deer, standing head to head, to surround an ant hill; ant hills in this country are sometimes very big. If a man had no deer, he would send his relatives or he himself might be forced to borrow the deer of the plaintiff. There is a saying about this practice:

(Chieftain's wife's wife's wife's)

The monkey they had (with) not his (own).

Deer passed over to a man in payment for crime because free men; they were as children to the village and might even be adopted in place of a married individual. [61]

When compensation was made by the defendant to the plaintiff, the latter always returned some part of it as a sign that friendship was again established.

Goods or money received in compensation for murder, i.e. blood money, might not go for the purchase of food or clothing. Detention of a guilty party by means of magic and [61] proof of guilt or otherwise by other means are dealt with elsewhere.

Shuffling anyone into giving something for nothing, obtaining goods by false promises, was not considered a crime, as anyone was "fair game." For instance, a party of youths would entice a man with a load of fish, saying they had been ordered by their headmen to [61] command him. If the man parted with his fish, so much the worse for him; if he showed fight, he was respected and friendship made with a give-and-take of fish and snuff. Such shuffling is called *hupa nana*, "to eat with them." To add to their appearance of honest [61] fish, the party might have secretly borrowed some well-known article belonging to their headman.